

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CATHERINE LONG and)
ERROLL JONES and HEZEKIAH)
SMITH,)
Plaintiffs,) Case No. 4:20-cv-1193
)
v.) JURY TRIAL DEMANDED
)
LIBERTY MUTUAL INSURANCE)
COMPANY,)
Defendant.)

NOTICE OF REMOVAL

To: The Honorable Judges of the United States District Court for the Eastern District of Missouri

Circuit Court of the Twenty-Second Judicial Circuit, State of Missouri

Matthew J. Sauter
Sauter Sullivan, LLC
3415 Hampton Avenue
St. Louis, MO 63139
ATTORNEY FOR PLAINTIFF

Pursuant to 28 U.S.C. §§ 1441 and 1446, LM General Insurance Company (mistakenly named as "Liberty Mutual Insurance Company" in petition) and removes this action from the Circuit Court of the Twenty-Second Judicial Circuit, State of Missouri, to the United States District Court for the Eastern District of Missouri, Eastern Division. As grounds for this removal, defendant states:

1. On April 13, 2020, an action was commenced against defendant LM General Insurance Company in the in the Circuit Court of the Twenty-Second Judicial Circuit entitled *Catherine Long, et al, v. Liberty Mutual Insurance*, Cause Number 2022-CC00769. Copies of the Plaintiff's original Petition setting forth the claim for relief is attached as part of the Circuit Court

file, Exhibit "A".

2. This is an action in which the United States District Court for the Eastern District of Missouri has original jurisdiction under the provisions of 28 U.S.C. § 1332 in that the controversy in said action is wholly between citizens of different states and that the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

3. The controversy in this lawsuit is wholly between citizens of different states:

- (a) Plaintiffs, at the time this action commenced, and ever since, were and are residents and citizens of the State of Missouri.
- (b) Defendant LM General Insurance Company is now and was at all times relevant a citizen of the State of Delaware and the Commonwealth of Massachusetts, incorporated in the State of Delaware, and having its principal place of business in the Commonwealth of Massachusetts. Liberty Mutual Insurance Company, which was incorrectly named as the defendant is a citizen of the Commonwealth of Massachusetts, incorporated in the Commonwealth of Massachusetts, and having its principal place of business in the Commonwealth of Massachusetts.

4. The action is a civil case for breach of contract, claiming uninsured motorist benefits pursuant to a policy of insurance, arising out of an automobile accident that occurred on April 18, 2019.

5. The amount in controversy as to each plaintiff, exclusive of interest and costs, exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00). Plaintiffs, in their Petition, each allege two counts against defendant. In Counts I, III, and V, plaintiffs each pray for relief in an amount up to \$75,000.00. In Counts II, IV, and VI, plaintiffs each claim to be entitled to penalties and attorneys' fees. In Counts I and II, which may be aggregated, plaintiff Catherine Long prays for

a total amount in excess of \$75,000.00. In Counts III and IV, which may be aggregated, plaintiff Errol Jones prays for a total amount in excess of \$75,000.00. In Counts V and VI, which may be aggregated, plaintiff Hezekiah Smith prays for a total amount in excess of \$75,000.00. Thus, the claims of each respective plaintiff exceed the minimum amount in controversy for diversity jurisdiction.

6. This Notice of Removal has been filed within thirty days of defendant's receipt of the Summons and Plaintiff's Petition setting forth the claim for relief upon which this action is based; therefore, this Notice of Removal has been timely filed under 28 U.S.C. §§ 1441 and 1446. See Notice of Service of Process contained in Exhibit "A".

7. The United States District Court for the Eastern District of Missouri, Eastern Division, is the appropriate court for filing a Notice of Removal from the Circuit Court of the Twenty-Second Judicial Circuit, State of Missouri, where the action was filed.

8. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 2.03, copies of all process, pleadings, orders and other documents served upon defendant in this action on file pertaining to this matter in the Circuit Court as of the date of this filing are attached hereto and marked as "Exhibit A".

9. Pursuant to 28 U.S.C. § 1446(d), defendant has served a copy of the Notice of Removal upon all adverse parties.

10. Pursuant to 28 U.S.C. § 1446(a), defendant hereby demands a trial by jury.

11. Because complete diversity of citizenship exists between Plaintiffs and LM General Insurance Company, and because the amount in controversy in this action exceeds the sum of \$75,000.00 as to each plaintiff, removal to this Court is proper under 28 U.S.C. §§ 1332, 1441 and 1446.

WHEREFORE, defendant LM General Insurance Company that the above action pending in the Circuit Court of the Twenty-Second Judicial Circuit, State of Missouri, be removed therefrom to this Court.

LAW OFFICES OF ROUSE AND CARY

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CERTIFICATE OF SERVICE

Signature above is also certification that a true and correct copy of the foregoing document has been mailed, first class, postage prepaid, this 2nd day of September, 2020 to: Matthew J. Sauter, Sauter. Sullivan. LLC, 3415 Hampton Avenue, St. Louis, MO 63139, msauter@ss-law.net.